

**State of Board of Health  
Minutes  
April 23, 2010 – 9:00 a.m.  
Perimeter Center, 9960 Mayland Drive  
Richmond, Virginia 23233**

Members present: Fred Hannett, Chairman; Dr. Craig Reed, Vice Chairman; Dr. Julie Beales; Scott Burnette; Paul Clements; Jim Edmondson; Bruce Edwards; Barbara Favola; Dr. Anna Jeng; Dr. Charles Johnson; Willis Logan; Dr. Bennie Marshall; Dr. Bhushan Pandya; and Ed Spearbeck.

Members absent: David Summers.

VDH staff present: Dr. Karen Remley, State Health Commissioner; Jeff Lake, Deputy Commissioner for Community Health Services; Dr. Mark Levine, Deputy Commissioner for Emergency Preparedness and Response; Joan Martin, Deputy Commissioner for Administration; Joe Hilbert, Executive Advisor; Catherine West, Administrative Assistant; Gary Brown, Director of the Office of Emergency Medical Services; Chris Durrer, Director, Office of Licensure and Certification; Dr. Keri Hall, Director of the Office of Epidemiology; Michael McMahan, Deputy Director, Office of Financial Management; and Suzi Silverstein and Jane Pratt, guests of the Commissioner

Others Present: Robin Kurz and Karri Atwood, Attorney General's Office; Dr. William A. Hazel, Jr., Secretary of Health and Human Resources; and Matt Cobb, Deputy Secretary of Health and Human Resources.

Call to Order

Mr. Hannett convened the meeting at 9:00 a.m.

Approval of Minutes

The minutes of the January 29, 2010 Board meeting were approved unanimously.

Matrix of Pending Regulatory Actions

Joe Hilbert reviewed the listing of all of the pending VDH regulatory actions. There were no questions.

Commissioner's Report

Dr. Remley introduced Suzi Silverstein, Director of Education and Training, Emergency Preparedness and Response Programs, and Jane Pratt, Public Information Officer. Dr. Remley invited Ms. Silverstein and Ms. Pratt to attend the meeting and meet the Board in recognition of the superior level of service that they have provided to the agency, particularly as part of the agency's response to the H1N1 influenza pandemic.

Dr. Remley announced several personnel changes for VDH:

- Joe Hilbert's title has been changed to more accurately reflect the position he holds at VDH. Joe's title is now Director of Governmental and Regulatory Affairs.
- Dr. Jim Burns, Deputy Commissioner for Public Health Programs and CIO, Dr. Bill Nelson, Director of the Chesterfield Health District, and Dr. David Suttle, Director of the Office of Family Health Services, will all be retiring in the next several months. Dr. David Trump will be acting director for the Office of Family Health Services until the position can be filled permanently. Dr. Remley will be handling the responsibilities of the Deputy of Public Health Programs until the position can be filled permanently.
- Thursa Crittendon and Martha Pulley are no longer with VDH. Martha is enjoying retirement and Thursa is volunteering to work in the areas of infant mortality and immunizations.
- Debbie Secor has accepted the position of VDH's Chief Information Officer.

VDH is embarking on a six month evaluation of all of its federal grants. Virginia is ranked 51<sup>st</sup> with regard to U.S. Centers for Disease Control and Prevention (CDC) grant funding per capita. VDH will be looking at how it uses grants in addition to evaluating if it is getting a fair share of grant money. A lot of federal grants have significant restrictions. Virginia does not have a school of public health which may be a factor in the low ranking. The Vaccines for Children Program is another opportunity for increased funding.

The Governor's state government restructuring and reform initiative is still in its very early stages. The initiative has offered suggestions for streamlining possibilities. The Office of the Secretary of Health and Human Resources has a strong interest in the No Wrong Door initiative, as well as improving social services programs, and data sharing between state agencies.

Dr Remley provided the following update concerning H1N1:

National and state organizations are in the process of reviewing after action activities. Dr. Remley has been participating in this activity. VDH is compiling formal reports for after action of its activities.

VDH continues to provide H1N1 vaccine where a number of states have stopped. Virginia's immunization rate is 26% while the median for the US is 24%. Virginia is also higher than the national average for vaccination of high risk groups. The private sector is now administering more vaccine than VDH.

VDH is working on getting the documentation from pediatricians for second doses of vaccine given to children. VDH is still encouraging vaccination for children and pregnant women, particularly for those children that were not eligible for vaccination when this effort started.

Alabama is reporting one death per week due to H1N1.

The data shows that the best way to increase vaccination is through school-based programs. Those areas without school-based programs had lower vaccination rates. VDH needs to engage both home-schooled and private-schooled programs.

Dr. Reed asked if there is any difficulty with the expiration dates on vaccine. Dr. Remley answered that some flu mist has already expired and some will expire on June 1<sup>st</sup>. VDH is continuing to strongly encourage that people get vaccinated.

Most seasonal flu starts in October while H1N1 began earlier. VDH is going to look at Anthem's claim data to compare H1N1 vs. seasonal flu claim expenses. VDH hopes to be able to determine if there is a difference in total health care costs between vaccinated and non-vaccinated individuals.

Mr. Hannett asked a question about whether federal money was going away and about funding for Arlington and Fairfax County vs. funding for Prince William and Loudoun counties. Virginia received \$32 million for special emergency funds. VDH wants to use any remaining money for this fall. VDH is not currently funded to provide seasonal flu vaccine. For the next influenza season, immunization funding will not be available from the CDC and the US Department of Health and Human Services. Communities will be asking why VDH is not once again providing free vaccine.

Mr. Edmondson asked if H1N1 vaccine is manufactured in Virginia. Dr. Remley indicated that there are five or six H1N1 vaccine manufacturers worldwide, none of which are located in the US. The vaccine is grown in chicken eggs. There continues to be discussions at the federal level concerning development of new vaccine manufacturing processes and technology. H1N1 vaccine was manufactured in a very short turnaround time.

Dr. Jeng commented that VDH has done good job with regard to the H1N1 situation. She commented on the variation where vaccine was given in schools. Dr. Remley indicated that local health departments talked with school superintendents. She went on to say that now is the opportune time to talk with superintendent to show the results of vaccinations. VDH can also discuss absenteeism for both children and teachers and how this affects the school system.

Mr. Spearbeck asked who determines at the federal level the allocation of vaccine. Dr. Remley answered that Virginia gave vaccine to any individual who wanted it; we did not ask where an individual lived. VDH made sure that communities got their vaccine. The allocation was based on total state population. A portion was taken for active duty military. It was left to the state on how the vaccine was distributed. VDH distributed vaccine to local health districts for school age children. Vaccine was also given to health care workers. Vaccine was distributed to obstetricians and gynecologists for pregnant women and some to internists for individuals with chronic disease.

Budget Update

Mike McMahon provided the budget update. At this point, VDH is confident that its budget has been finalized for the first fiscal year 2011. There are some areas of the fiscal year 2012 budget that are not yet finalized and that will be addressed in next year's General Assembly session. The appropriation for fiscal year 2010 did not change in the caboose bill. VDH is in good shape as it approaches the end of the fiscal year due to prudence in controlling spending. However, VDH is showing a growing dependence on non general funds. There is a minor over-all increase in the budget for fiscal year 2011 compared to fiscal year 2010.

Mr. Edwards commented that this was one of the most confusing sessions in terms of the budget. With regard to EMS funds, his understanding is that the vehicle registration surcharge that funds EMS was increased from \$4.25 to \$6.25 and that the Office of Emergency Medical Services is not getting all of this funding. Mr. McMahon answered that the majority of the new revenue goes to the general fund. Two million of EMS funding will go to the state police for Medivac.

There is less money in the budget for poison control centers. Dr. Remley commented that VDH will meet with the centers. She also indicated that Virginia can have an effective system with just one poison control center.

The General Assembly increased the fees that support the trauma fund. The trauma fund will remain intact.

VDH will implement the budget reduction strategies that have been included in the Appropriation Act. VDH will eliminate labs and pharmacies in certain districts and pharmacies. There will be additional resources for the Office of the Chief Medical Examiner.

Mr. Edmondson commented that it is encouraging that public health is important to the General Assembly. He also indicated that the general news has been that state funds decreased overall. Mr. Edmondson wanted to know how VDH had managed the reductions. Dr. Remley answered that VDH started reducing its budget earlier than many agencies. Many of VDH's services are federally funded or mandated by Code. Ms. Favola commented that some local governments have picked up some of the costs in the local health departments. Mr. Lake indicated that it will be more difficult for local governments next year. Mr. Lake also expressed his appreciation that some localities contribute more than is required of them. Mr. Logan asked if the increase in non-general funds is more in the area of federal or special funds. Mr. McMahon indicated that he would research that and reply directly back to Mr. Logan.

Dr. Jeng asked what service areas are affected by reductions in the local health departments. Mr. Lake answered that cuts mean three things: the reduction of staff (approximately 175 positions); reduce the number of clinics; and increase the time it takes for environmental health services. It also increases the amount of work for remaining staff to ship lab specimens to an outside lab.

VDH continues to look at efficiencies, monitor discretionary spending, and examine how to maximize revenue. In making the decision to recommend lab and pharmacy closures in the local

health districts, VDH looked at particular services that were available in some local health departments but not all. VDH's focus was on those activities that would have limited impact on the smallest number of districts.

#### Legislative Update

Joe Hilbert provided a brief summary of passed legislation signed into law. Unless otherwise noted, the new laws go into effect July 1, 2010. Mr. Burnette

Mr. Burnette asked for a description of the types of circumstances under which HB286 (treatment of infectious disease) would come into effect. Dr. Remley answered only during a communicable disease event. This legislation only covers a narrow window of circumstances and puts into Code what physicians have already been doing.

Dr. Reed commented on HB621 (rabies regulation and control). He indicated that this legislation is missing provisions pertaining to wildlife control, though this is not an area of responsibility for VDH. Mr. Hilbert thanked Dr. Reed for the help he provided with this bill during the session.

Mr. Hannett commented that HB1039 brings the state into compliance with ARRA requirements. Mr. Hilbert answered that this legislation was in response to a breach in security with regard to information in the Department of Health Professions. The legislation only affects public entities and does not apply to entities already covered by HIPAA. Mr. Hannett felt that the legislation is more stringent. Mr. Hilbert will research and respond back to Mr. Hannett.

#### Public Comment

There were no comments from any member of the public.

#### Nursing Home Request for Applications

Chris Durrer presented this action item to the Board. The request for applications is required by the Code of Virginia when there is a demonstrated need for additional nursing home beds. After a discussion about the request for application process, the Board approved the request for applications.

#### Designation of Regional Emergency Medical Services Councils

Gary Brown presented the recommendation for designation of the 11 regional EMS councils. The councils were unanimously approved by the Board.

#### Statewide Prehospital and Interhospital Stroke Triage Plan

Gary Brown presented state stroke triage plan. In recent years there have been major efforts by national organizations to promote quality of care for stroke victims. This plan has been approved by the EMS Advisory Board and requires Board of Health approval. The triage plan was unanimously approved by the Board.

### Federal Health Care Reform Update

Joe Hilbert provided the federal health care reform update. Mr. Hilbert provided the Board with two documents from the Kaiser Family Foundation; a timeline and a detailed summary of the major provisions. These two documents cover the bulk of the initiatives and modifications. The major categories for the two pieces of legislation that were signed into law in March 2010 are:

- Individual coverage mandate;
- Regulation of the insurance industry;
- Premium tax credits to afford mandated coverage;
- Establishment of a health insurance exchange in all states;
- Medicaid expansion;
- Provider reimbursement;
- Public health funding opportunities to promote wellness and prevention;
- Increase in the healthcare workforce;
- Improving healthcare system performance; and
- Voluntary long term care program.

Not all provisions will take effect at the same time; some in September 2010; some in 2012, 2013, and 2014.

Mr. Hannett advised the Board that members need to make sure that their constituencies know the regulatory process is beginning and what the provisions of the new law are.

There was a discussion among the Board about the coverage mandate and state-based insurance exchange. There was also a discussion about changes in Medicaid provisions.

### Lunch Presentation

William A. Hazel, Jr., MD, Secretary of Health and Human Resources, provided an overview of his Secretariat. Health and Human Resources is a large part of Virginia government, comprised of 13 agencies and 17,000 employees. Dr. Hazel indicated that his office is very busy with planning for implementation of the federal health care reform legislation. The Board discussed several aspects of this. There was also a discussion about electronic health records.

### Board Regulatory Action Items

*Disease Reporting and Control Regulations (12 VAC 5-90) – (Proposed Amendments – expansion of healthcare associated infection reporting requirements)*

Dr. Hall presented the proposed amendments. There was a brief discussion of whether the information reported would be accessible to the public. The proposed amendments were unanimously approved.

*Disease Reporting and Control Regulations (12 VAC 5-90) – (Final Amendments – to comply with recent changes to Code of Virginia, and updated disease control policies and practices)*

Dr. Hall presented the final amendments. There was a brief discussion concerning the potential use of animal disease data to help monitor zoonotic diseases in humans. There was also a general discussion about the full range of disease reporting requirements and the means by which physicians are informed of these requirements. The final amendments were unanimously approved.

*Virginia Immunization Information System Regulations (12 VAC 5-115) (Proposed Regulations)*

Dr. Hall presented the proposed regulations. Ms. Kurz pointed out that there are several concerns with the current language of the regulations and more time is needed to correct that language. A motion to defer action on the proposed regulations was made. The Board unanimously approved the motion for deferment.

*Virginia Radiation Protection Regulations (12 VAC 5-481) (Notice of Intended Regulatory Action)*

Dr. Hall presented the notice of intended regulator action (NOIRA) for the radiation protection regulations. The Board unanimously approved the NOIRA.

*Regulations for Licensure of Hospitals (12 VAC 5-410) (Exempt Regulatory Action)*

Mr. Durrer presented this exempt regulatory action to amend the regulations. The Board unanimously approved the regulations.

*Regulations for Licensure of Nursing Facilities (12 VAC 5-371) (Exempt Regulatory Action)*

Mr. Durrer presented this exempt regulatory action to amend the regulations. The Board unanimously approved the regulations.

Nominating Committee Report

Dr. Craig Reed provided the report of the Nominating Committee. The committee was comprised of Dr. Reed, Scott Burnette, and Barbara Favola. The following slate of officers for the year beginning July 1, 2010 was recommended:

Chairman – Dr. Craig Reed  
Vice-Chairman – Dr. Julie Beales  
Executive Committee Member – Jim Edmondson  
Executive Committee Member – Dr. Bennie Marshall

The Board unanimously approved the Nominating Committee report.

Member Reports

*Dr. Bhushan Pandya – Medical Society of Virginia.* MSV is interested in and participating with other stakeholders in development and implementation of an electronic health exchange.

*Jim Edmondson – Consumer Representative.* He is delighted to see that the hospital-associated infections regulations were approved by the Board. He is also interested in the COPN process in Loudoun and Fairfax.

*Bruce Edwards – Emergency Medical Services Representative.* No report.

*Dr. Charles Johnson – Virginia Dental Association.* VDA has upcoming Mission of Mercy projects in Roanoke, Gloucester, and Martinsville.

*Barbara Favola – Local Government.* Local governments are struggling with their budgets. Some jurisdictions are raising tax rates rather than reduce services. Local governments are also looking at alternative sewage system regulations. She commented that there is a good working group addressing these issues.

*Paul Clements – Nursing Home Industry Representative.* Medicare cuts in the health care reform legislation as well as the zero increase in Medicaid reimbursement will have a significant fiscal impact on nursing homes. The Virginia Health Care Association and the Virginia Association of Hospices and Palliative Care are working collaboratively on hospice vs. long-term care issues such as communication, length of stay, financial implications, etc.

*Dr. Anna Jeng – Public Environmental Health Representative.* She has met with VDH environmental health staff about her concerns with regard to the alternative onsite sewage emergency regulations. She has had an opportunity to make recommendations and commented about the good job staff is doing. She plans to continue to meet with the environmental health staff.

*Dr. Craig Reed – Virginia Veterinary Medical Association.* Practitioners are still worried even though there is new rabies control legislation. People do not understand what feral cats are. Practitioners think that objections can be overcome in urban areas but the state may have difficulty enforcing vaccination requirements in rural areas. This will be a challenge for VDH as it tries to figure out how to enforce the law. Practitioners also concerned about parasites transmitted from animals to people. People may come to the local health department for help with parasites.

*Julie Beales – Medical Society of Virginia.* VDH's Office of Rural Health is forwarding funding to the Veterans Administration (VA), employees solely devoted to rural health. The VA can offer services such as screenings and nutrition education to non-veterans in communities. The more that the VA can partner with other organizations, the better for everyone in the community. She also commended Jeff Lake for the assistance his office has given her.

*Scott Burnette – Hospital Industry.* Hospitals are trying to deal with the effects of health reform and budget reductions. The push is for quality of care and patient safety. His hospital has started using electronic physician orders and is currently at 37% utilization.

*Dr. Bennie Marshall – Virginia Nurses Association.* VNA is examining the expanded role of advanced practice nurses. VNA continues to support for education of nursing faculty. She will be a VNA delegate to the American Nurses Association House of Delegates meeting from June 15 through 19.

*Ed Spearbeck – Virginia Pharmacists Association.* Mr. Spearbeck told the Board that prescription prices for Medicare are down. Manufacturers are a step ahead of the health care reform process, having already raised prices on drugs for which patents have not yet expired.

*Willis Logan – Consumer Representative.* Mr. Logan discussed healthcare workforce issues and issues dealing with at-risk youth. He also discussed new legislation which mandates health insurance coverage for telemedicine services. He said that telemedicine is a wonderful service for rural communities.

*Fred Hannett – Corporate Purchaser of Health Care.* He congratulated the newly elected officers. He then informed the Board that this would be his last meeting as a Board member. Mr. Hannett said that it has been his honor to serve the citizens of Virginia as well as a privilege and pleasure to serve with fellow board members. He talked about the exciting challenges and opportunities with health care reform. One of the things that he has tried to do is to get the Board more active in activities related to the Board and he exhorted the Board to be vocal and active.

#### Adjourn

The meeting adjourned at approximately 2:20 p.m.